



REC-1110

JUN 22 2004

TECH CENTER 2600

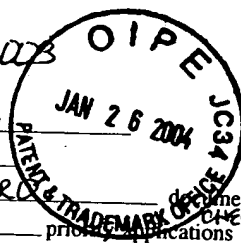
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

(Monday)  
Date 1 / 26 / 04  
Mo. Day Yr.  
03560. 002647  
Atty. Docket (36. 2647)  
Application No. 09/16464, 605

Sir:

Kindly acknowledge receipt of the accompanying:

- ☒ Response to Official Action. September 24, 2003
- ☒ Check for \$ 172.00 (claims fee)
- ☒ Petition under 37 CFR 1.136 and Check for \$ 110.00
- ☐ Notice of Appeal and Check for \$ \_\_\_\_\_
- ☒ Information Disclosure Statement, PTO-1449 and 292
- ☐ Claim for priority and certified copies of \_\_\_\_\_
- ☐ Issue fee transmittal and Check for \$ \_\_\_\_\_
- ☒ Other (specify) See Transmittal



by placing your receiving date stamp hereon and returning to deliverer.

Atty. DEK/lay/vc

Due Date 1 / 24 / 04  
Mo. Day Yr.

FOHS-D-00

## PATENT APPLICATION FEE DETERMINATION RECORD

Substitute for Form PTO-875

Application or Docket Number

09/066605

## CLAIMS AS FILED - PART I

(Column 1)

(Column 2)

SMALL ENTITY

OR

OTHER THAN  
SMALL ENTITY

FOR	NUMBER FILED	NUMBER EXTRA
BASIC FEE (37 CFR 1.16(a))		
TOTAL CLAIMS (37 CFR 1.16(c))	minus 20 =	
INDEPENDENT CLAIMS (37 CFR 1.16(b))	minus 3 =	
MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(d))		

RATE	FEE
	\$
X \$	=
X \$	=
+ \$	=
TOTAL	

RATE	FEE
	\$
X \$	=
X \$	=
+ \$	=
TOTAL	

\* If the difference in column 1 is less than zero, enter "0" in column 2.

## CLAIMS AS AMENDED - PART II

(Column 1)

(Column 2)

(Column 3)

SMALL ENTITY

OR

OTHER THAN  
SMALL ENTITY

AMENDMENT A	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total (37 CFR 1.16(c))	42	Minus 20	= 22
Independent (37 CFR 1.16(b))	6	Minus 3	= 3
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(d))			

RATE	ADDITIONAL FEE
X \$	=
X \$	=
+ \$	=
TOTAL ADD'L FEE	

RATE	ADDITIONAL FEE
X \$	=
X \$	=
+ \$	=
TOTAL ADD'L FEE	

AMENDMENT B	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total (37 CFR 1.16(c))		Minus	=
Independent (37 CFR 1.16(b))		Minus	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(d))			

RATE	ADDITIONAL FEE
X \$	=
X \$	=
+ \$	=
TOTAL ADD'L FEE	

RATE	ADDITIONAL FEE
X \$	=
X \$	=
+ \$	=
TOTAL ADD'L FEE	

AMENDMENT C	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total (37 CFR 1.16(c))		Minus	=
Independent (37 CFR 1.16(b))		Minus	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(d))			

RATE	ADDITIONAL FEE
X \$	=
X \$	=
+ \$	=
TOTAL ADD'L FEE	

RATE	ADDITIONAL FEE
X \$	=
X \$	=
+ \$	=
TOTAL ADD'L FEE	

- \* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
- \*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20"
- \*\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
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09172005

FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

In re Application of  
Tohru DEN et al  
Application No. 09/666,605  
Filed: September 20, 2000  
Attorney Docket No. 35.G2647

DECISION ON PETITION

This is a decision on the communication filed June 14, 2004, requesting that Notice of Abandonment be withdrawn. The communication has been treated as a petition requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned for failure to timely reply the non-final Office action mailed September 24, 2003, setting a three-month period of response. A Notice of Abandonment was mailed on May 18, 2004.

Petitioner asserts that an Amendment, a Petition for One-Month Extension of Time, a check for the Extension of Time fee and an Information Disclosure Statement were timely filed in the U. S. Patent and Trademark Office (USPTO) on January 26, 2004. This is evidenced by a copy of the above papers, a copy of the cancelled check and the stamped post card receipt indicating receipt of the papers in the USPTO on January 26, 2004.

The review of the application file reveals that the Amendment, the Petition for One-Month Extension of Time, the fee and the Information Disclosure Statement in response to the September 24, 2003 Office action were received and matched with the file. However, the response was not noticed by either the examiner or the technical support staff and consequently the application was held to be abandoned. The application is not abandoned in fact.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the response to the September 24, 2003 Office action. From there, it will be returned to the examiner for further prosecution.

Questions regarding this decision should be directed to Jose' G. Dees at 571-272-1569.

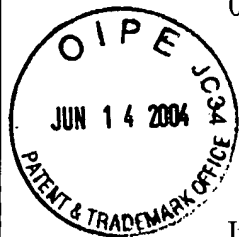
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James L. Dwyer, Director  
Technology Center 2800  
Semiconductor, Electrical and Optical  
Systems and Components

2811

03560.002647 (35.G2647)

PATENT APPLICATION



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**RECEIVED**

JUN 22 2004

**TECH CENTER 2800**

In re Application of: )  
: Examiner: S. Hu  
Tohru DEN, et al. )  
: Group Art Unit: 2811  
Application No.: 09/666,605 )  
:   
Filed: September 20, 2000 )  
:   
For: STRUCTURE HAVING PORES, )  
: DEVICE USING THE SAME, AND )  
: MANUFACTURING METHODS )  
: THEREFOR )  
: June 14, 2004

**RECEIVED**

AUG 18 2004

**OFFICE OF THE SPECIAL  
PROGRAMS EXAMINER**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REQUEST FOR WITHDRAWAL OF ERRONEOUS ABANDONMENT

Sir:

Applicants have received a Notice of Abandonment indicating that the above application became abandoned for failure to respond to the Office Action dated September 24, 2003. A copy of the Notice of Abandonment is attached as Exhibit A.

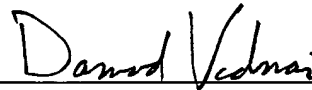
In fact, Applicants filed an Amendment and Petition for a one-month extension of time on Monday, January 26, 2004, together with a Transmittal and an Information Disclosure Statement. A copy of each of these papers is attached as Exhibit B. A copy of the obverse and reverse sides of the cancelled check for the \$110.00 extension fee is attached as Exhibit C. A copy of a stamped postcard receipt acknowledging the United States Patent and Trademark Office's receipt of the Amendment and Petition for Extension

of Time, and extension fee on January 26, 2004 is attached as Exhibit D.

In view of the foregoing, it is respectfully submitted that a response to the September 24, 2003 Office Action was timely filed on January 26, 2004, and it is respectfully requested that the Notice of Abandonment be withdrawn as erroneous.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



Attorney for Applicants

Damond E. Vadnais

Registration No. 52,310

FITZPATRICK, CELLA, HARPER & SCINTO  
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New York, New York 10112-3800  
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DEV/vc

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